

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JOHN L. ROBERTS,

CV. 11-119-KI

Petitioner,

ORDER

v.

STATE OF OREGON,

Respondent.

KING, Judge

Petitioner, an inmate at Two Rivers Correctional Institution, seeks a "writ of mandamus", claiming that he was denied his right to a speedy trial in state court and has been subjected to excessive appellate delay. This court construes the mandamus petition to be a habeas corpus petition brought pursuant to 28 U.S.C. § 2254.

A party seeking to institute a habeas corpus proceeding shall pay a filing fee of \$5.00. 28 U.S.C. § 1914(a). An action may proceed without the prepayment of a filing fee only upon a proper application to proceed *in forma pauperis*. 28 U.S.C. § 1915(a).

Petitioner has neither submitted the requisite filing fee nor moved to proceed *in forma pauperis*. Accordingly, IT IS ORDERED that petitioner shall submit the \$5.00 filing fee or an application to proceed *in forma pauperis*. IT IS FURTHER ORDERED that petitioner shall file an amended habeas petition, using the form § 2254 petition supplied by the court, naming the Warden of Two Rivers Correctional Institution as the respondent.

CONCLUSION

Within 30 days of the date of this order, petitioner shall (1) submit the \$5.00 filing fee or an application to proceed *in forma pauperis*; and (2) file an amended habeas corpus petition using the form petition supplied by the court. Petitioner is advised that failure to comply with the directives of this order shall result in the dismissal of this proceeding.

The Clerk of the Court is DIRECTED to send petitioner a form § 2254 habeas corpus petition and an application to proceed *in forma pauperis* with this order.

IT IS SO ORDERED.

DATED this 16th day of February, 2011.

/s/ Garr M. King
Garr M. King
United States District Judge